

BUILDING CODE BOARD OF APPEALS

Section 2.01 Appointment

There is hereby established a Board to be called the Building Code Board of Appeals (hereinafter called "the Board"), which shall consist of nine (9) members who are residents of the City of Arlington. Such Board shall be composed of one (1) architect, one (1) general contractor or engineer, one (1) member with experience in the area of fire protection and fire safety, and the remaining members shall be selected at large from the building industry. The Mayor and each City Council member shall nominate a member with confirmation by majority vote of the City Council in accordance with the City of Arlington Boards and Commissions Policy Statement. (Amend Ord 04-042, 5/11/04)

Section 2.02 Term of Office

Place numbers shall be assigned to each member of the Board. The term of office for Board members shall be for two (2) years. Vacancies shall be filled for an unexpired term in the same manner as the original appointments. Continued absence of any member from regular meetings of the Board shall, at the discretion of the City Council, render any such member liable to immediate removal from office. Members shall serve at the will and pleasure of the City Council. (Amend Ord 04-042, 5/11/04)

Section 2.03 Quorum

Five (5) members of the Board shall constitute a quorum for the transaction of business. A simple majority of members present shall be required to vary the application of any provision of this Building Code or to modify any order of the Building Official. (Amend Ord 04-042, 5/11/04)

Section 2.04 Records

The Building Official shall act as Secretary of the Building Code Board of Appeals and shall make a detailed record of all its proceedings, which record shall set forth the names of the members and/or alternate member present, the reasons for the Board's decisions, the vote of each member participating therein, and any failure of a member to vote.

Section 2.05 Procedure

The Chairman shall be appointed in accordance with the Administration Chapter of the City Code. The Board shall select a vice-chairman and shall further establish rules and regulations for its own procedures not inconsistent with the provisions of this Building Code. The Board shall meet at regular intervals to be determined by the Chairman, and the Board shall meet within thirty (30) days after notice of any appeal has been received. (Amend Ord 96-93, 07/02/96)

Section 2.06 Appeals; Time Limit

A. The owner of premises who seeks to erect or alter a building or structure on said premises, or an authorized agent, may appeal from a decision of the Building Official to the Board if:

- (1) The Building Official shall reject or refuse to approve the mode or manner of construction proposed to be followed, or the materials proposed to be used, in the erection or alteration of said building or structure; or
- (2) Said owner claims that the provisions of this Building Code do not apply to the proposed construction; or
- (3) Said owner claims that an equally good or more desirable form of construction or materials can be employed in the proposed construction than the Building Official requires; or
- (4) Said owner claims that the true intent and meaning of this Building Code or of any of its regulations have been misconstrued or wrongly interpreted.

An administrative fee, as set by resolution of the Arlington City Council, shall accompany the notice of appeal which the owner or an authorized agent must file in writing with, and on a form provided by, said Building Official.

B. The notice of appeal shall be filed within thirty (30) days after the Building Official renders a decision: provided, however, that said Building Official may limit the time for appeal to a shorter period in cases involving buildings or structures that are, in the Building Official's opinion, unsafe or dangerous.

C. Initiating work, progressing with that portion of work which is the particular issue on appeal, or progressing with work which would cover the matter on appeal, shall void such appeal. (Amend Ord 96-93, 07/02/96)

Section 2.07 Board Decisions; Variations and Modifications

A. The Board, when appealed to, shall conduct a hearing and, after such hearing, may vary the application of any provision of this Building Code to any particular case when, in its opinion, the enforcement thereof would do manifest injustice and would be contrary to the spirit and purpose of said Building Code or the public interest, or when, in its opinion, the interpretation of the Building Official should be modified or reversed for any other reason.

B. A decision of the Board to vary the application of any provision of this Building Code or to modify an order of the Building Official shall specify in what manner such variation or modification is made, the conditions upon which it is made and the reasons therefor.

Section 2.08 Board Decisions; Procedure

A. Every decision of the Board shall be final: subject, however, to such remedy as any aggrieved party might have at law or in equity. The decision shall be in writing and shall indicate the vote upon the decision. Every decision shall be promptly filed in the office of the Building Official and shall be open to the public for inspection. A true and correct copy of the decision shall be sent by mail or otherwise to the appellant and a copy shall be publicly posted in the office of the Building Official for two (2) weeks after the filing thereof.

B. The Board shall in every case reach a decision without unreasonable or unnecessary delay.

C. If a decision of the Board reverses or modifies any decision of the Building Official or varies the application of any provision of this Building Code, the Building Official shall immediately take action in accordance with such decision.

D. Any person, firm or corporation aggrieved by any decision of the Board may present to a court of record a petition, duly verified, setting forth that such decision is illegal in whole or in part, and specifying the grounds of the illegality. Unless such petition (appeal) shall be presented to the court within ten (10) days of the decision of the Board, the decision of the Board shall become final. (Amend Ord 89-76, 06/27/89)